

REMARKS

Claims 1-10 are pending in the present application. Applicants hereby elect Group I, claims 1-5 for initial examination in this application. This election is with traverse. Therefore, reconsideration and withdrawal of the Examiner's Restriction Requirement in view of the following remarks are respectfully requested.

Patent Cooperation Treaty

At the outset, it is respectfully submitted that the present application entered into the National Phase before the USPTO based on a PCT Application. Thus, the rules that apply to the present application with regard to unity of invention are set forth in 37 C.F.R. §§ 1.475 to 1.477.

In the Examiner's Office Action, the Examiner seems to recognize this at paragraph 1 of the Examiner's Office Action; however, the Examiner then proceeds to use U.S. Restriction Practice at paragraph 2 of the Examiner's Office Action. Applicants respectfully submit that this is improper unity of invention practice.

As set forth in 37 C.F.R. § 1.475(a), an international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept. Specifically, the unity of invention standard is met when a group of inventions include the same "special technical feature." A "special technical feature" is a feature that defines a contribution which each of the claimed inventions makes over the prior art. It is respectfully submitted that the present application does include claims that are so linked as to form a single general inventive. The special technical feature is the specific mobile telephone apparatus that is included in each of the independent claims. In view of this, the Examiner's unity of invention requirement is improper and should be withdrawn.

The Examiner has required election in the present application between:

Group I, claims 1-5, drawn to a mobile telephone apparatus; classified in class 455, subclass 550.1;

Group II, claim 6, drawn to a portable detector and the portable detector receives the rescue signal transmitted from the mobile telephone apparatus, classified in class 455, subclass 41.2;

Group III, claim 7, drawn to a computer, the computer locates the position of the mobile telephone apparatus on the principle of trilateration; classified in class 455, subclass 456.2; and

Group IV, claims 8-10, drawn to a robot and the robot moves close to the mobile telephone apparatus while receiving the rescue signal transmitted from the mobile telephone apparatus, classified in class 340, subclass 539.13.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 1-5.

It is noted that the Examiner's Office Action at paragraph relies on U.S. Restriction Practice and not the unity of invention standard. Applicants respectfully submit that the Examiner's Restriction Requirement is still improper under U.S. Restriction Practice. Specifically, the Examiner has indicated that the inventions are distinct, because they are related under a combination/subcombination theory, and the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination is not essential to the subcombination. The Examiner's rationale is entirely incorrect. In order for claims to be restricted on combination/subcombination theory, it is necessary that there be an element of the subcombination claim (claim 1 in this instance) that is not included in the combination claims (claims 6, 7 and 8). In the present situation, the combination claims 6, 7 and 8 include each and every limitation of the subcombination claim 1. In view of this, distinctness has not been shown by the Examiner.

It is also noted that Applicants have elected the subcombination claims 1-5. If the Examiner persists in this Restriction Requirement, Applicants request the Examiner to examine all of the claims in the present application, once a generic subcombination claim is ultimately found to be allowable. **Applicants also reserve the right to petition this requirement or file a Divisional Application directed to the non-elected claims at a later date if it is so desired.**


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Paul C. Lewis, Registration No 43,368 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 
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